

# MEMORANDUM

Agenda Item No. 6(A)

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**TO:** Hon. Chairperson and Members  
Board of County Commissioners

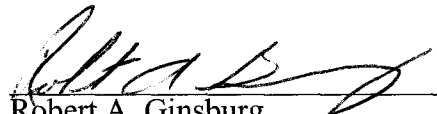
(Second Reading 11-30-04)  
**DATE:** May 25, 2004

**FROM:** Robert A. Ginsburg  
County Attorney

**SUBJECT:** Ordinance amending Sections  
2-11.1, 2-11.1.1 and 12-22  
relating to the Conflict of  
Interest and Code of Ethics  
Ordinance; requiring restitution

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The accompanying ordinance was prepared and placed on the agenda at the request of  
Commissioner Natacha Seijas.

  
Robert A. Ginsburg  
County Attorney

RAG/bw



## MEMORANDUM

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**TO:** Honorable Chairperson Barbara Carey-Shuler, Ed.D. **DATE:** November 30, 2004  
and Members, Board of County Commissioners

**FROM:** George M. Burgess  
County Manager

A handwritten signature in black ink, which appears to read "Burgess", is written over the printed name of George M. Burgess.

**SUBJECT:** Ordinance amending  
section 2-11.1, 2-11.1.1 and  
12-22 relating to the Conflict  
of Interest and Code of  
Ethics Ordinance; requiring  
restitution

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The ordinance amending section 2-11.1, 2-11.1.1 and 12-22 of the Code of Miami Dade County relating to the Conflict of Interest and Code of Ethics ordinance will not have a negative fiscal impact on Miami-Dade County.

fiscal/03804

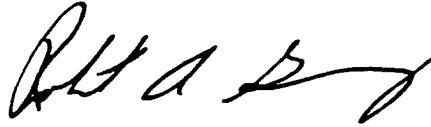


# MEMORANDUM

(Revised)

**TO:** Hon. Chairperson Barbara Carey-Shuler, Ed.D.  
and Members, Board of County Commissioners

**DATE:** November 30, 2004

**FROM:**   
Robert A. Ginsburg  
County Attorney

**SUBJECT:** Agenda Item No. 6(A)

Please note any items checked.

- ☐ "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Bid waiver requiring County Manager's written recommendation
- ☐ Ordinance creating a new board requires detailed County Manager's report for public hearing
- ☐ Housekeeping item (no policy decision required)
- ☐ No committee review

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 6(A)  
11-30-04

ORDINANCE NO. \_\_\_\_\_

ORDINANCE AMENDING SECTIONS 2-11.1, 2-11.1.1 AND 12-22 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, TO EMPOWER ETHICS COMMISSION TO REQUIRE RESTITUTION WHEN A PERSON VIOLATES CONFLICT OF INTEREST AND CODE OF ETHICS ORDINANCE, ETHICAL CAMPAIGN PRACTICES ORDINANCE OR ELECTION CAMPAIGN FINANCING TRUST FUND ORDINANCE; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF  
MIAMI-DADE COUNTY, FLORIDA:**

Section 1. Sections 2-11.1, 2-11.1.1 and 12-22 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:<sup>1</sup>

**Section 2-11.1                      Conflict of Interest and Code of Ethics  
Ordinance.**

\*                      \*                      \*

**(z)      *Penalty.***

- (1) *Proceeding before Ethics Commission.* A finding by the Ethics Commission that a person has violated this section shall subject said person to an admonition or public reprimand and/or a fine of two hundred fifty dollars (\$250.00) for the first such violation and five hundred dollars (\$500.00) for each subsequent violation. >>The Ethics Commission may also order the person to pay restitution when the person or a third party has received a pecuniary benefit as a result of the person's violation. The procedure for determining restitution shall be

<sup>1</sup> Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

governed by an administrative order adopted by the County Commission and rules of procedure promulgated by the Ethics Commission.<<

- (2) *Prosecution by State Attorney in State court.* Every person who is convicted of a violation of this section in State court shall be punished by a fine not to exceed five hundred dollars (\$500.00) or imprisonment in the County Jail for not more than thirty (30) days, or by both such fine and imprisonment.

\* \* \*

**Sec. 2-11.1.1. Ethical campaign practices ordinance.**

\* \* \*

- (C) *Mandatory Fair Campaign Practices.*

\* \* \*

- (3) *Penalties.* In addition to any other penalty provided by law, a finding by the Ethics Commission that a candidate or a member of his or her staff has violated one (1) or more of the mandatory fair campaign practices shall subject said candidate, a member of his or her staff, or both, to an admonition or public reprimand and/or a fine of five hundred dollars (\$500.00) for the first such violation and one thousand dollars (\$1,000.00) for each subsequent violation. >>The Ethics Commission may also order a person who violates a mandatory fair campaign practice to pay restitution when the person or a third party receives a pecuniary benefit as a result of the person's violation. The procedure for determining restitution shall be governed by an administrative order adopted by the County Commission and rules of procedure promulgated by the Ethics Commission.<<

\* \* \*

**Sec. 12-22. Election Campaign Financing Trust Fund.**

\* \* \*

(k) *Enforcement and Penalties.*

- (1) *Enforcement by the Ethics Commission.* The Ethics Commission shall be empowered to review, interpret, render advisory opinions and letters of instruction and enforce section 12-22 of the Code. In addition to any other penalties which may be applicable, a finding by the Ethics Commission that a person has violated subsections (c), (d), (e), (f), (g) or (i) shall subject said person to an admonition or public reprimand and/or a fine of two hundred fifty dollars (\$250.00) for the first such violation and five hundred dollars (\$500.00) for each subsequent violation. >>The Ethics Commission may also order a person to pay restitution when the person or a third party has received a pecuniary benefit as a result of the person's violation. The procedure for determining restitution shall be governed by an administrative order adopted by the County Commission and rules of procedure promulgated by the Ethics Commission.<<
- (2) *Prosecution by the State Attorney in State Court.* In addition to any other penalties which may be applicable, any individual who violates subsections (c), (d), (e) or (h) shall be subject to a fine up to five thousand dollars (\$5,000.00) or imprisonment not to exceed three hundred sixty-four (364) days, or both.
- (3) Any person who has pled guilty, pled nolo contendere, been found guilty or been convicted of a violation of subsections (e), (f), (h) or (j) as provided in subsections (k)(1) or (k)(2) shall be barred from receiving funds from the Fund for a period of eight (8) years.

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

**PASSED AND ADOPTED:**

Approved by County Attorney as  
to form and legal sufficiency:

RA6

Prepared by:

GKS

Gerald K. Sanchez

Sponsored by Commissioner Natacha Seijas